

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|   |   |                             |
|---|---|-----------------------------|
| <b>KERRY LEE SWITZER JR.,</b>             | ) |                             |
|   | ) |                             |
| <b>Plaintiff,</b>                         | ) |                             |
|   | ) |                             |
| <b>v.</b>                                 | ) | <b>Case No. 1:22-CV-201</b> |
|   | ) |                             |
| <b>FRANKLIN INVESTMENT CORP., et al.,</b> | ) |                             |
|   | ) |                             |
| <b>Defendants.</b>                        | ) |                             |

**MEMORANDUM ORDER**

This action was received by the Clerk of Court on June 29, 2022. The matter was later referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Plaintiff, acting pro se, alleges that Defendants Franklin Investment Corp. and Cortech violated the Computer Fraud and Abuse Act and the wire fraud statute, as well as two state statutes. Defendants moved to dismiss for failure to state a claim. ECF No. 24; ECF No. 26. In response thereto, Plaintiff filed an amended complaint. ECF No. 35.

On January 8, 2023, Magistrate Judge Lanzillo issued a Report and Recommendation. Judge Lanzillo recommended that, in the interest of judicial efficiency and preservation of judicial resources, the Court rule on the sufficiency of the amended complaint based on the pending motions to dismiss the original complaint. Judge Lanzillo further recommended that the motions to dismiss be granted, that the action be dismissed for failure to state a claim, and that

further amendment of the complaint be denied. ECF No. 38. As of today's date, no objections to the Report and Recommendation have been filed.

"If a party objects timely to a magistrate judge's report and recommendation, the district court must 'make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.'" *EEOC v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) *quoting* 28 U.S.C. § 636(b)(1). Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).

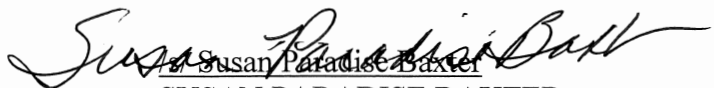
After *de novo* review of the complaint, amended complaint, and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 26th day of January 2023;

IT IS ORDERED that the motions to dismiss [ECF No. 24 and ECF No. 26] are granted.

AND IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on January 8, 2023 [ECF No. 38] is adopted as the opinion of the court.

The Clerk is directed to mark this case "CLOSED."

  
SUSAN PARADISE BAXTER  
United States District Judge